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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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|-----------------|-------------|----------------------|---------------------|

09/503,508 02/14/00 HANSEN

P 02052-087001

EXAMINER

TM02/1010

Diana DiBerardino
Fish & Richardson PC
601 13th Street NW
Washington DC 20005

BAO, S

ART UNIT

PAPER NUMBER

2121

DATE MAILED:

10/10/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/503,508

Applicant(s)
Hansen, et al.

Examiner
Sheela Rao

Art Unit
2121



— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jul 27, 2001
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 9
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

DETAILED ACTION

1. Applicant's amendment and response to the Office Action filed on July 27, 2001 has been entered and considered.
2. Claims 1-15 are presented for examination.
3. Applicant's submission of references on form PTO-1449 has been considered. A signed copy of the form is attached.

Response to Amendment

4. The objection made to claim 3 is withdrawn in light of the amendment of claim 3.
5. The rejection of claims 1-15 under 35 USC §102(b) as being anticipated by Haines, et al. (USPN 5,251,148) is **maintained**.

Response to Arguments

6. Applicant's arguments filed July 27, 2001 have been fully considered but they are not persuasive.

Applicant argues that the reference of prior art to Haines, et al. does not describe or suggest an open loop method of controlling flow rate. In response to this argument, the recitation of the open loop method has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a method and the portion of the claim following the preamble is a self-contained description of the method not depending for completeness upon the introductory clause. *Kropa c. Robie*, 88 USPQ 478 (CCPA 1951).

As for the Applicant's comments regarding the determination and adjustment of a target valve stem position, Haines, et al. teach of a throttle element which is movable to selectively vary the flow rate of fluid flowing, see column 2 lines 36-37 and column 5, lines 22-30. Haines goes on to explain the adjustment of the valve position based on the pressure signals received by sensors. A utilization device receives these signals and then develops control signals used to move the throttle element as required; thereby adjusting the throttle to a position that matched the flow rate (see column 2, lines 40-51 and column 8, lines 47-51). A target flow rate is inherent to such systems wherein pressure or fluid flow is present. Too much or too little pressure or flow of fluid can be detrimental; therefore, establishing an appropriate level or rate is essential for proper production.

For the reasons stated above, the limitations of the claimed invention is taught by the prior arts of record; thereby, rendering the instant claims, 1-15, unpatentable.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela Rao whose telephone number is (703) 305-9766. The examiner can normally be reached Monday - Thursday from 9:00 am to 3:00 pm .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Grant, can be reached on (703) 308-1108.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or *faxed* to:

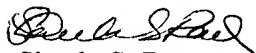
(703) 746-7238 for After-Final Communications

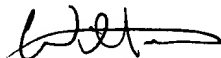
(703) 746-7239 for Official Communications

(703) 746-7240 for Status Inquiries of Draft Communications

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.


Sheela S. Rao
October 9, 2001


WILLIAM GRANT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
10/9/01